

STATE OF INDIANA – COUNTY OF ALLEN  
IN THE ALLEN CIRCUIT AND SUPERIOR COURTS

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**Notice of Proposed Amendment of Local Rule for a Caseload Allocation  
Plan for the Courts of Record of Allen County  
June 1, 2008**

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In accordance with Administrative Rule 1(E) of the Indiana Court Rules, the Allen Circuit and Superior Courts hereby give notice to the bar and the public that the Courts propose to amend the Local Rule setting forth the caseload allocation plan for the courts of record of Allen County, effective January 1, 2009. All new text is shown by underlining and deleted text is shown by ~~striketrough~~. Local Rules for caseload allocation plans pursuant to Admin. R. 1(E) require Supreme Court approval and may not take effect until approved by the Supreme Court.

In accordance with Trial Rule 81(B), the time period for the bar and the public to comment shall begin on June 1, 2008, and shall close on June 30, 2008. The proposed amendments to the rule will be adopted, modified or rejected before July 31, 2008, and the final version of the rule will be submitted to the Indiana Supreme Court for review and approval not later than August 1, 2008.

Comments by the bar and the public should be made in writing and mailed to:

Hon. Stanley A. Levine,  
Chief Judge of the Allen Superior Court  
Attn: Public Comment on Local Rules  
Allen County Courthouse  
715 S. Calhoun St.  
Fort Wayne, Indiana 46802

A paper copy of the proposed amended local rule for Caseload Allocation Plan will be made available for viewing in the office of the Clerk of Allen County, Allen County Courthouse, 715 S. Calhoun St., Fort Wayne, Indiana, 46802. during normal business hours. Persons with Internet access may view the proposed amended local rule for Caseload Allocation Plan at the following website:

<http://www.in.gov/judiciary/rules/local>

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Thomas J. Felts, Judge  
Allen Circuit Court

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Stanley A. Levine, Chief Judge  
Allen Superior Court

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**~~2006/2007 CASELOAD ALLOCATION PLAN  
FOR ALLEN COUNTY COURTS~~**

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**LR02-AR1E-1      Allen County Caseload Allocation Plan - 2008/2009**

**(A) Domestic Relations (DR) *pro se* cases Caseload Distribution**

New cases filed with the Clerk of the Allen Superior and Circuit Court on a Verified Petition for Dissolution of Marriage without legal representation (otherwise known as *pro se* divorces), shall be assigned on an alternating basis (every other case) to ~~the~~ Superior Court 8 and Circuit Court respectively.

Effective January 1, 2007, effective as amended August 1, 2008

**(B) Mortgage Foreclosures (MF)**

(1) 50% shall be filed in Circuit Court, and

(2) 50% shall be filed in Superior Court, divided evenly among the four judges of the Civil Division (Superior 1, Superior 2, Superior 3 and Superior 9).

Effective August 1, 2008

**(C) Civil Collections (CC)**

Civil Collection (CC) cases shall be assigned in the proportion of 55% in Superior Court, divided evenly among the four judges of the Civil Division (Superior 1, Superior 2, Superior 3 and Superior 9, and 45% in the Circuit Court, as assigned by the Clerk's Office.

Effective August 1, 2008

The courts in Allen County are organized under IC 33-33-2 which specifies that, in addition to the judge of the Allen circuit court, the Allen superior court consists of nine (9) judges serving in three (3) divisions as follows:

- (1) Two (2) judges serve in the family relations division.
- (2) Three (3) judges serve in the criminal division.
- (3) Four (4) judges serve in the civil division.

The statute further specifies the number of magistrates, referees and hearing officers serving the Allen Circuit court and the criminal and civil divisions of the Allen superior court as follows:

———— Circuit Court

One (1) full-time magistrate.

One (1) hearing officer.

Superior Court — Civil Division

Up to four (4) full-time magistrates.

Superior Court Criminal Division

Up to three (3) full-time magistrates.

In addition, the Superior Court Family Relations Division has three (3) full-time magistrates and one (1) juvenile referee. Thus, in total, the courts in Allen County consist of a total of ten (10) judges and thirteen (13) additional judicial officers.

By statute and by local rule, certain case types are heard in the Circuit Court and within each division of the Superior Court. The result of this, in terms of caseload distribution and weighted caseload analysis (using 2005 filing statistics), is as follows:

**2005 Weighted Caseload / Utilization Factor**

(maximum allowable caseload differential: 0.40)

	<u>Judge</u>	<u>Need</u>	<u>Have</u>	<u>Utiliz.</u>
<b>Circuit</b>	<b>Thomas J. Felts</b>	4.70	3.00	4.57
<b>Superior 1</b>	<b>Nancy Eshcoff Boyer</b>	2.17	2.00	1.08
<b>Superior 2</b>	<b>Daniel G. Heath</b>	2.15	2.00	1.08
<b>Superior 3</b>	<b>Stanley A. Levine</b>	2.19	2.00	1.09
<b>Superior 4</b>	<b>Kenneth R. Scheibenberger</b>	2.72	2.00	1.36
<b>Superior 5</b>	<b>Frances C. Gull</b>	2.88	2.00	1.44
<b>Superior 6</b>	<b>John F. Surbeck, Jr.</b>	2.70	2.00	1.35

<b>Superior 7 Stephen M. Sims</b>	3.67	3.00	1.22
<b>Superior 8 Charles F. Pratt</b>	2.79	3.00	0.93
<b>Superior 9 David J. Avery</b>	2.45	2.00	1.22

**Differential: Circuit - Superior 8** **0.64**

A difference in the utilization factor between Circuit Court and Superior 8 in 2005 was .64. This is consistent with the caseload differential in 2004 and requires that the courts in Allen County develop a caseload distribution plan to reduce the caseload differential to a level within the maximum allowable difference of .40.

To address this, the courts have targeted a sub-set of DR cases, *pro se* cases, where an uneven distribution of cases has directly contributed to caseload distribution problems in Allen County.

#### **Pro Se DR Filings**

	<b><u>2004</u></b>	<b><u>2005</u></b>
<b>Circuit</b>	483	470
<b>Superior</b>	75	64
	<u>558</u>	<u>534</u>

<b>Circuit by %</b>	86.56%	88.01%
<b>Superior by %</b>	13.44%	11.99%

By identifying and resolving the uneven distribution of *pro se* DR cases between Circuit Court and Superior 8, the courts in Allen County come into compliance with the caseload distribution standard established by the Supreme Court. The effect of evenly distributing *pro se* DR filings between Circuit Court and Superior 8 is demonstrated below:

#### **2005 Weighted Caseload / Utilization Factor adjusted for pro se DR**

(maximum allowable caseload differential: 0.40)

	<b><u>Judge</u></b>	<b><u>Need</u></b>	<b><u>Have Utiliz.</u></b>	
<b>Circuit</b>	<b>Thomas J. Felts</b>	4.23	3.00	1.41
<b>Superior 1</b>	<b>Nancy Eshcoff Boyer</b>	2.17	2.00	1.08
<b>Superior 2</b>	<b>Daniel G. Heath</b>	2.15	2.00	1.08
<b>Superior 3</b>	<b>Stanley A. Levine</b>	2.19	2.00	1.09
<b>Superior 4</b>	<b>Kenneth R. Scheibenberger</b>	2.72	2.00	1.36

<b>Superior 5 Frances C. Gull</b>	<b>2.88</b>	<b>2.00</b>	<b>1.44</b>
<b>Superior 6 John F. Surbeck, Jr.</b>	<b>2.70</b>	<b>2.00</b>	<b>1.35</b>
<b>Superior 7 Stephen M. Sims</b>	<b>3.67</b>	<b>3.00</b>	<b>1.22</b>
<b>Superior 8 Charles F. Pratt</b>	<b>3.25</b>	<b>3.00</b>	<b>1.08</b>
<b>Superior 9 David J. Avery</b>	<b>2.45</b>	<b>2.00</b>	<b>1.22</b>

**Differential: Superior 5 - Superior 1, 2, 8 0.35**

This approach to caseload distribution accomplishes the desired goal with minimal disruption to courts, divisions, litigants and the legal community in Allen County, and is recommended for approval.<sup>+</sup>

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<sup>+</sup> Over and above the even distribution of *pro se* DR cases between Circuit Court and Superior 8 in the proposal above, the court also anticipates an additional number of DR filings in Superior 8 filed by the State of Indiana for enforcement purposes.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2008

This order is hereby approved and signed by:

For the Allen Circuit Court:

\_\_\_\_\_  
Thomas J. Felts, Judge

For the Allen Superior Court:

\_\_\_\_\_  
Nancy Eshcoff Boyer, Judge

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Daniel G. Heath, Judge

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Stanley A. Levine, Judge

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Frances, C. Gull, Judge

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John F. Surbeck, Jr., Judge

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Kenneth R. Scheibenberger, Judge

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Stephen M. Sims, Judge

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Charles F. Pratt, Judge

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David J. Avery, Judge